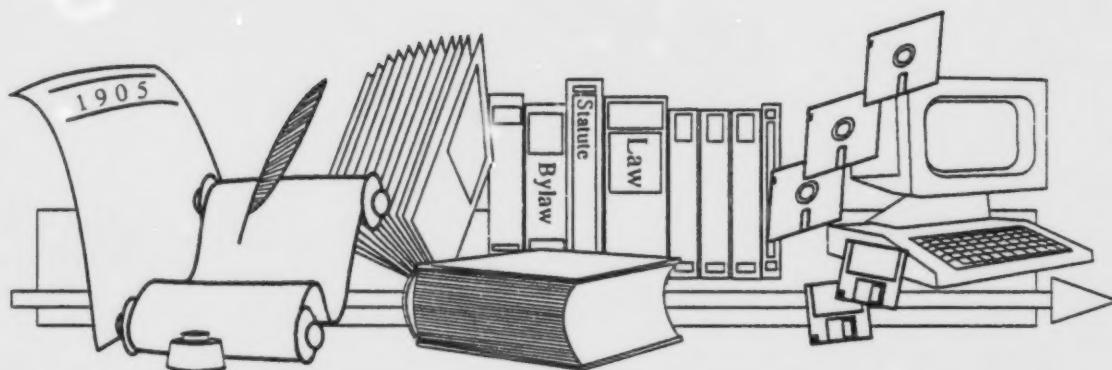

Legislation Paper No. 4
Preliminary Discussion Draft

“Finance of Municipalities”

Response Deadline: April 30, 1990



Alberta
Municipal Statutes Review Committee

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FOREWORD

This Legislation Paper is one of a series being published by the Municipal Statutes Review Committee to generate discussion on the provincial legislation which empowers municipal government in Alberta.

READERS SHOULD UNDERSTAND THAT THE PROPOSALS IN THIS PRELIMINARY DRAFT MAY BE CHANGED SUBSTANTIALY BY THE COMMITTEE WHEN A SECOND DRAFT IS PREPARED IN RESPONSE TO COMMENTS RECEIVED.

THE PROPOSALS IN THIS PRELIMINARY DRAFT MERGE PROVISIONS CURRENTLY CONTAINED IN THE MUNICIPAL GOVERNMENT ACT AND THE MUNICIPAL TAXATION ACT. READERS WILL FIND COMPARISON WITH EXISTING LEGISLATION DIFFICULT. AT THIS PRELIMINARY DISCUSSION DRAFT STAGE READERS SHOULD REACT TO THE CONCEPTS RATHER THAN CONCENTRATING ON DETAILS.

THE PROPOSALS HAVE NOT BEEN SUBMITTED FOR POLICY APPROVAL BY THE GOVERNMENT PRIOR TO PUBLICATION OF THIS PAPER. THEREFORE IT MAY BE ALTERED FROM A POLICY PERSPECTIVE WHEN IT IS REVIEWED BY THE GOVERNMENT. IT MAY ALSO BE ALTERED FROM A DRAFTING PERSPECTIVE DURING THE VARIOUS STAGES OF LEGISLATIVE REVIEW.

Interested persons are invited to submit comments/suggestions by April 30, 1990:

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LEGISLATION PAPER PROCESS

In June, 1989, the committee published Legislation Paper No. 1, "Establishment of Municipalities", in October, Legislation Paper No. 2, "Organization of Municipalities", and in November, Legislation Paper No. 3 deals with the "Authority of Municipalities". This paper, Legislation Paper No. 4, deals with "Finance of Municipalities".

Subsequent papers will deal with:

Legislation Paper No. 5 (February 1990)	Legal Proceedings
Legislation Paper No. 6 (February 1990)	General Provisions

The Legislation Paper process is being used to develop a rewritten Municipal Government Act. The purposes of rewriting the Act are

- (a) simplification of language and procedures were possible
- (b) elimination of gaps/overlaps in provisions arising from a lengthy series of ad hoc amendments to the existing Act
- (c) Embodiment of the principles of the recommended Municipal Policy Statement in the Act
- (d) resolution of some issues raised in submissions to the committee.

"Preliminary Draft" Legislation Papers are used to expose ideas to public comment. "Second Draft" papers are basically a draft of the committee's final report. The report follows consideration of comments received on the Second Draft.

RECOMMENDED MUNICIPAL POLICY STATEMENT

The portions of the recommended Municipal Policy Statement which are addressed in this discussion paper are:

- 1.1 A MUNICIPALITY, A BODY CORPORATE, IS THE LOCAL UNIT OF GOVERNMENT ESTABLISHED BY THE PROVINCE ON THE REQUEST OF THE RESIDENTS OF A CLEARLY DEFINED GEOGRAPHICAL AREA
 - (a) TO FACILITATE THE PROVISION OF NECESSARY OR DESIRABLE SERVICES FOR PEOPLE AND PROPERTY, AND
 - (b) TO DEVELOP A VIABLE AND PLEASING COMMUNITY FOR THE RESIDENTS.
- 1.2 THE POWERS (AND) AUTHORITY...NEEDED BY A MUNICIPALITY TO ACHIEVE THESE PURPOSES ARE CONFIRMED IN PROVINCIAL LEGISLATION AND MAY BE CARRIED OUT IN COOPERATION WITH OTHER MUNICIPALITIES, THE PROVINCIAL AND FEDERAL GOVERNMENTS AND/OR OTHER PUBLIC AND PRIVATE AGENCIES/INSTITUTIONS.
- 1.3 THE POWERS AND AUTHORITY OF A MUNICIPALITY ARE VESTED IN A MUNICIPAL Council ELECTED BY, AND RESPONSIBLE TO, THE RESIDENTS.
- 2.1 THE PROVINCE RECOGNIZES THAT MUNICIPALITIES AND THE PROVINCIAL GOVERNMENT SHARE RESPONSIBILITY FOR THE DELIVERY OF SERVICES TO ALBERTANS.
- 3.2 LEGISLATION WILL PROVIDE THE FLEXIBILITY NECESSARY FOR MUNICIPALITIES TO OPERATE EFFECTIVELY AND EFFICIENTLY APPROPRIATE TO THEIR SIZE AND CAPABILITY.
- 3.8 LEGISLATION WILL DESCRIBE CORPORATE FUNCTIONS WHICH MUST BE CARRIED OUT AND WILL EMPOWER THE Council TO DESIGNATE EMPLOYEES RESPONSIBLE FOR THOSE FUNCTIONS.
- 3.10 LEGISLATION WILL FACILITATE THE ROLE OF THE Council IN POLICY DETERMINATION AND OF THE ADMINISTRATION IN POLICY IMPLEMENTATION.
- 4.2 ALL LEGISLATION RESPECTING THE TAXATION OF REAL PROPERTY, LOCAL IMPROVEMENT CHARGES, MUNICIPAL BUDGET AND FINANCIAL REQUIREMENTS WILL BE CONTAINED IN ONE ACT.

DISCUSSION

Part V of a new Municipal Government Act as proposed in this paper, combines portions of the existing Municipal Government Act and Municipal Taxation Act so that all of the provisions regarding budgets, taxation and borrowing will be in one Act. Where it has been necessary to refer to provisions regarding assessment, the term "Real Property Assessment Act" has been used. This is the title temporarily assigned by the committee to the new Act which it intends to recommend including all legislation respecting the assessment of property.

The committee has not attempted to amalgamate the Tax Recovery Act into this discussion draft. The committee intends to review that Act but has concluded that there would be no particular advantage in further expanding the proposed Part V, Municipal Government Act, to include the tax recovery provisions.

This part has been organized into five Divisions. A summary of each Division follows:

DIVISION 1 BUDGETS

This Division requires a Council to adopt a budget or an interim budget prior to the start of each calendar year in order to ensure that there is always spending authority available for the ongoing operation of the municipality. It also requires that revenues at least equal expenditures over any three year period. Finally it requires the annual preparation of three year capital estimates to assist in the financial management of municipalities. The provisions respecting reserve funds and the use of operating surpluses from the existing Municipal Government Act are also included here with some modifications.

DIVISION 2 PROPERTY TAXES

This Division basically mirrors the existing provisions of the Municipal Taxation Act. Innovations suggested are additional classifications of property for purposes of a split mill rate bylaw and the power to issue an interim tax notice if an interim budget has been adopted. Receipts for tax payments may be given in the manner approved by the Council.

DIVISION 3 BUSINESS TAXATION

This Division basically mirrors the existing provisions of the Municipal Taxation Act. One innovation suggested is that the business assessment may be calculated as a percentage of the property assessment, in order to eliminate the need of doing a separate assessment for business tax purposes.

DIVISION 4 LOCAL IMPROVEMENT TAXATION

This Division basically mirrors the existing provisions of the Municipal Taxation Act. However, the detailed list of local improvements has been replaced with a general power for the Council to undertake any capital work which in its opinion is of greater benefit to the area in which it is undertaken than to the whole municipality as a local improvement. Section 46 provides some additional situations under which local improvement tax rates may be varied and in section 48 the designated official is empowered to correct an error in the number of lineal feet or units of area attributed to any parcel.

DIVISION 5 BORROWING

This Division basically mirrors the existing provisions of the Municipal Government Act. Section 49(1) generalizes the purposes for which borrowing may be undertaken, reflecting the approach adopted in Legislation Paper No.3. The existing provisions have been re-ordered and grouped in an attempt to bring together the various provisions affecting any one transaction. The flexibility provided to large municipalities in the existing provisions has been continued in section 55. The method of payment of debentures has been generalized as have the provisions regarding sinking funds.

The remainder of this paper is a discussion draft of legislation for review and comment. An index is provided for easy reference.

Readers are urged to consider whether the key concepts embodied in this paper are appropriate and to make suggestions for their improvement (or removal) as the case may be.

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PART V
FINANCE

DIVISION 1 - Budgets

Definitions

1. In this part

- (a) "operating budget" means an estimate of the probable revenues and expenditures of the municipality for the year
- (b) "interim operating budget" means a budget adopted for part of the year or a tentative budget for the entire year prepared before a final budget is adopted
- (c) "ordinary municipal purposes" means
 - (i) programs and policies adopted by the Council pursuant to this or any other Act for which the expenditure of money by the municipality is necessary,
 - (ii) debenture instalments, interest and sinking fund payments falling due during the year,
 - (iii) contributions to a special reserve fund or to a capital project, and
 - (iv) recovery of a deficiency of revenue or an over-expenditure in a previous year.
- (d) "requisitions" means
 - (i) the requisitions of any hospital district, ambulance district, school district or school division pursuant to the Hospitals Act, Ambulance Services Act or the School Act as the case may be,
 - (ii) the requisitions of the Government pursuant to the School Act and the Planning Act, and
 - (iii) any other sum that the municipality may become liable to pay under any other Act.

Financial Year

- 2 The financial year of a municipality is the calendar year.

Adoption of Operating Budget

- 3(1) Prior to the commencement of each year the Council shall cause to be prepared and shall adopt an operating budget or an interim operating budget.
- (2) If the Council adopts an interim operating budget it shall adopt an operating budget as soon as possible in the year.

- (3) If the Council fails to adopt an operating budget or an interim operating budget prior to the commencement of the year, it shall be deemed to have adopted 1/3 of the previous year's operating budget as an interim operating budget for the first 4 months of the year.

Contents of Operating Budget

- 4(1) An operating budget shall include as expenditures the sums necessary to meet such expenditures for ordinary municipal purposes as may be approved by the Council.
- (2) An operating budget shall include as revenues, in aggregate sufficient to equal the estimated expenditures, the sums likely to be derived from
- (a) business taxes,
 - (b) grants in lieu of taxes,
 - (c) transfer payments from other governments,
 - (d) all other sources of revenue other than property taxation, and
 - (e) property taxation.
- (3) The total estimated revenues for the year and the actual revenues for the two preceding years shall not be less than the total estimated and actual expenditures for the same period unless otherwise approved by the Minister by order.
- (4) An order under sub-section (3) may be made at any time and may
- (a) direct that any expenditures be made or revenues be raised for such period of time as the Minister deems appropriate in the circumstances, and
 - (b) provide for the appointment of a comptroller of the affairs of the municipality pursuant to the Department of Municipal Affairs Act.

Capital Budget

- 5(1) During each year a Council shall cause to be prepared and shall adopt a capital budget for the next succeeding three years or such longer period as the Council may decide.
- (2) The capital budget shall include an estimate of
- (a) the probable cost of acquiring or constructing any land, building, machinery, equipment and other fixed assets for which the Council intends to pay over a period of two or more years,
 - (b) the probable contributions to the payment from any other sources than borrowing and from borrowing, and

- (c) the probable annual expenditures described in section 1(c)(ii) for any borrowing required.

Amendment of Operating and Capital Budgets

6 Subject to section 4(4) a Council may amend

- (a) an interim operating budget at any time prior to the adoption of the operating budget,
- (b) an operating budget at any time during the year, and
- (c) a capital budget at any time.

Expenditure of Money

7(1) No money of the municipality shall be expended for any purpose unless the expenditure is included in

- (a) an interim operating budget,
- (b) an operating budget, or
- (c) a capital budget

or an amendment thereto except in the case of an emergency.

- (2) The Council shall establish procedures for authorizing emergency expenditures but any such expenditure shall be submitted to the Council for approval as soon as practicable after it has been made.

General and Special Reserves

8(1) A Council may provide for the establishment and maintenance of

- (a) general reserve funds, and
- (b) special reserve funds for any capital expenditures or deferred maintenance which it is authorized to undertake

and for their investment in any of the securities referred to in section 60(2).

- (2) To obtain money for general or special reserve funds the Council may include in the budget and levy in any year a sum not exceeding 1/3 of the total sum expended for ordinary municipal purposes, excluding contributions to reserve funds, during the preceding year.
- (3) All money collected for special reserve funds shall be maintained in special reserve fund accounts and shall be expended only for the purposes for which they were established.
- (4) Sub-section (2) does not apply to reserves or surpluses available from public utilities, land sales or sources other than by levy under Division 2.

Use of Operating Surplus

- 9 A Council may authorize any operating surpluses of the municipality
- (a) to be credited to a general or special reserve
 - (b) to be invested in
 - (i) any of the securities referred to in section 60(2)
 - (ii) notes, deposit receipts or term deposit certificates of a bank, treasury branch or credit union
 - (iii) investment certificates as defined in and issued by a trust company registered under the Trust Companies Act
 - (c) to be applied as general revenue to the subsequent year
- and any money of the municipality that is not required for immediate disbursement may be invested in accordance with clause (b).

DIVISION 2 - Property Taxation

Determination of Tax Rate

- 10(1) The Council shall in each year pass a tax rate bylaw.
- (2) The tax rate bylaw shall authorize a designated official to levy a tax on the assessed value of all assessed property shown on the assessment roll at the uniform rate on the dollar that the Council considers sufficient to produce the sums necessary to meet
 - (a) the property tax revenues estimated pursuant to section 4(2)(e),
 - (b) the requisitions for the year,
 - (c) an allowance for the estimated revenues pursuant to subsection (4)2 which may reasonably be expected to remain unpaid during the year not exceeding the actual rate of revenues uncollected in the previous year, and
 - (d) an allowance for any discount for prepayment of taxes authorized by the Council pursuant to this Act.
 - (3) Notwithstanding subsection (2), when a requisition applies to only part of a municipality, the tax to be levied to meet the requisition shall be levied only on assessed property in the part of the municipality to which the requisition applies.
 - (4) Notwithstanding subsection (3)
 - (a) the Council may authorize a levy at a uniform rate on the dollar sufficient to produce the combined requisitions of all hospital and ambulance districts, and

- (b) taxes on property assessed under the Electric Power and Pipeline Assessment Act shall be levied at a uniform rate throughout the municipality.
- (5) A bylaw under this section may provide for a minimum amount payable in respect of any parcel of land or fraction of a quarter section which amount shall not be more than \$25.
- (6) The Minister may make regulations governing the calculation of the uniform rates of tax referred to in subsection (4).
- (7) The tax rate bylaw may combine into one rate or separate into such different rates as the Council may desire, the taxes to be levied and payable by a public school supporter and by a separate school supporter in such a manner as the Council considers will best inform the taxpayers.
- (8) A bylaw passed pursuant to this section may be amended or varied before the date of mailing of the tax notices but not later.

Requisition Adjustments

- 11 If during the previous year the sums raised pursuant to section 8(2)(b) and (c) exceeded or were insufficient to meet any of the requisitions, the Council shall deduct from or add to, as the case may be, the requisition for the current year the amount of the excess or the deficiency.

Split Tax Rates

12(1) In this section

- (a) "residential property" includes
 - (i) any building used only for residential purposes and the parcel of land forming its site,
 - (ii) any other building situated on the same parcel of land, the use of which is directly ancillary to residential use
 - (iii) if there is a mixed use of a building, the proportionate amount of the building used for residential purposes and the proportionate amount of the site, and
 - (iv) a parcel of land that is vacant residential land;
- (b) "vacant residential land" means vacant residential land as defined in the Property Tax Reduction Act
- (c) "vacant non-residential land" means land with no improvements located on, in, over or under it but does not include farmland or vacant residential land.

(2) A Council may provide by bylaw for

- (a) the classification of assessed property as residential property and non-residential property,
- (b) a further classification of property as farm land,
- (c) if it so wishes, the further sub-classification of residential property and non-residential property into different classes on any basis it considers proper, and,
- (d) the further sub-classification of any class of property into different classes for land and improvements.

(3) A bylaw passed pursuant to subsection (2) shall provide for the classification of vacant residential land and vacant non-residential land.

(4) If a bylaw is passed pursuant to subsection (2) the Council may in passing a bylaw under section 10(2) establish a tax rate for each class or sub-class of property.

Special Taxes

13 In addition to the taxes levied pursuant to section 10 a Council may levy by bylaw annually special taxes of an amount per assessable foot of frontage fixed by bylaw as a special tax against every lot fronting or abutting on any street, lane, public highway or boulevard on, in or under which any service is supplied which is included in the estimated expenditures included in the operating budget.

Well Drilling and Servicing Tax

14(1) A Council by bylaw may provide for the imposition of a tax on land on which equipment is operating

- (a) when the equipment is engaged in the drilling of any well for which a license is required under the Oil and Gas Conservation Act, or
- (b) when the equipment is engaged in servicing a gas well or oil well.

(2) Any owner, conditional owner or lessee of drilling equipment or the owner or lessee of the site on which the equipment is operation shall supply to the designated official of the municipality any information necessary to compute the tax.

(3) The tax is payable by the owner or lessee of the well site and

- (a) may be imposed at any time during the year,
- (b) becomes due and payable on cessation of the drilling or servicing operation,

- (c) is subject to the penalties, not exceeding 18% per annum in aggregate, as may be provided in the bylaw,
 - (d) remaining unpaid for a period of 30 days after the due date may be collected with costs pursuant to Part IV, section 15.
- (4) The Minister may make regulations
- (a) establishing a schedule for computing the tax, and
 - (b) generally for carrying out the purpose and intent of this section.

(NOTE: The committee will propose to the Energy Resources Conservation Board that a condition of granting a permit to drill a well be the filing with the Board of a receipt for a deposit on the well drilling tax payable.)

Mobile Units

15(1) In this section,

- (a) "license" means a mobile unit license issue pursuant to this section;
 - (b) "license officer" means the chief administrative officer or a person appointed by him;
 - (c) "license year" means the calendar year;
 - (d) "occupied" means
 - (i) occupied by the owner or a person permitted by him to occupy a mobile unit, or
 - (ii) not occupied by the owner and no other person is permitted to occupy it in the absence of the owner

except that clause (ii) does not apply to a bona fide tourist or to a dealer in mobile units with respect to mobile units stored and available for sale at his place of business or on land used in conjunction with the business;
 - (e) "owner" means a person who is in lawful possession of a mobile unit.
- (2) A Council by bylaw may provide for the licensing of mobile units and the imposition of a mobile license fee in each year in accordance with the regulations.
- (3) The owner of a mobile unit is not required to have a license in respect of a mobile unit
- (a) occupied by a bona fide tourist if the mobile unit is located in a tourist resort as defined in the regulations,

- (b) used chiefly as a farm building or farm residence as defined in the Real Property Assessment Act,
 - (c) that is subject to a tax levy pursuant to section 10.
- (4) When a municipality has passed a bylaw under subsection (2) the owner of a mobile unit shall not occupy or permit any other person to occupy a mobile unit at any time during which he is not the holder of a subsisting mobile unit license for the mobile unit issued by the municipality in which the mobile unit is situated, except as provided in subsection (5).
- (5) Not later than 14 days after a mobile unit is occupied, the owner of the mobile unit shall
- (a) apply to the license officer of the municipality in which it is situated for a license,
 - (b) provide to the license officer all information which he may request necessary to enable him to carry out his duties, and
 - (c) pay the prescribed license fee or enter into an agreement with the municipality to pay the fee by instalments if a bylaw has been passed under section 23 providing for the payment of taxes under this Division by instalments
- and the license officer shall issue a mobile unit license to an owner who has complied with this section.
- (6) A mobile unit license fee is payable for those months during the year in which the mobile unit is occupied, a portion of a month being taken as a whole month, and if
- (a) a license fee has been paid, and
 - (b) the mobile unit is removed from the municipality or is no longer occupied prior to the expiry of the period to which the fee applies
- the license officer, on application by the owner on or before December 31 in the year with respect to which the license fee was paid, shall refund the portion of the fee applying to months remaining in the period.
- (7) If a mobile unit is required to be licensed the municipality shall make a valuation of the mobile unit, and the provisions respecting
- (a) the preparation and inspection of the assessment roll apply to the valuation except that the valuation may be made at a different time from that fixed with respect to the assessment roll, and
 - (b) the mailing of assessment notices, complaints as to assessments, the right of appeal from assessments and the mailing of tax notices apply with all necessary modifications to the valuation and the license fee.

(8) The Minister may make regulations

- (a) defining any term not defined in this section,
- (b) establishing a schedule for the calculation of license fees under this section,
- (c) prescribing methods for valuing mobile units,
- (d) approving forms for use under this section,
- (e) generally for carrying out the purpose and intent of this section.

Application of Tax Revenues

- 16 The total amount of all the taxes levied and collected in any year shall be credited to the general revenue of the municipality and shall be available for the payment of the expenditures approved in the budget and for the payment of requisitions.

Excess of Revenues

- 17 If the sums collected exceed the amounts estimated in the budget, the balance shall be at the disposal of the Council unless otherwise specially appropriated but if any portion of the amount in excess has been collected on account of a special tax levied on part of the municipality, that amount shall be appropriated to the special object for which it was collected.

Compromise, Cancellation and Refund of Taxes

- 18 A Council may pass a resolution with respect to any specific property or business for the purpose of
- (a) compromising payment of arrears of taxes on any terms that may be agreed upon;
 - (b) cancelling arrears of taxes that are no longer collectible from the person taxed;
 - (c) cancelling or refunding all or any part of a tax levy where the Council considers it equitable to do so;
 - (d) the phasing in of a tax increase resulting from a general assessment over a period not exceeding 3 years by cancelling or refunding a portion of the tax levy and in this section "taxes" means any taxes levied under this Part.

Tax Roll

- 19(1) In this section "taxes" means the taxes levied pursuant to this Part and the amounts charged as taxes pursuant to Part IV, section 15.

- (2) The tax roll may be a continuation of the assessment roll and may combine all classes of taxes or there may be a separate roll for each distinct class of taxes.
- (3) The designated official shall enter on the tax roll
 - (a) the name and address of each person liable to taxation,
 - (b) the assessed value of land and improvements,
 - (c) the assessed value of a special franchise,
 - (d) the assessed value of property assessed under the Electric Power and Pipe Line Assessment Act,
 - (e) the valuation of property under the Municipal and Provincial Properties Valuation Act,
 - (f) the sums for which that person is chargeable by way of taxes,
 - (g) the total arrears of taxes due,
 - (h) the total amount for which he is liable, and
 - (i) any additional information which the Council may direct to be included.
- (4) Appended to every tax roll there shall be a table setting forth
 - (a) the name, rate and amount to be collected under each class of taxes, and
 - (b) the total amount of taxes to be collected by virtue of the roll.
- (5) Every person shown on the roll shall pay the taxes lawfully imposed irrespective of the nature or amount of his interest in the assessed property and no sum in excess of the total taxes, penalties or costs shall be exacted from any such person.

Assessment and Tax Certificates

- 20(1) The designated official on receipt of a request shall issue
- (a) an assessment certificate showing the description of a parcel and the latest assessed values of the land and improvements thereon as set out in the assessment roll,
 - (b) a summary of assessment certificate showing the assessments year by year as set out in the assessment roll for the years requested,
 - (c) a tax certificate showing the amount of current taxes and arrears of taxes payable against any property,

- (d) an arrears of taxes certificate showing the portion of the arrears attributable to each year,
 - (e) a description certificate showing the description of a parcel as set out in the assessment roll, and
 - (f) to the owner or purchaser of any parcel of land or improvement owned or being purchased by him, a copy of the assessment record or particulars as to the assessed value of the parcel of land or improvement.
- (2) A request for a certificate or record under this section shall be made in the manner approved by the Council, shall include a legal or other description of the property by which it can be identified and shall be accompanied by the fee which the Council may authorize for its provision.
- (3) A person whose name appears on the assessment roll is not liable to the payment of any fee under this section for an inspection of the assessment roll during the period provided for review of the roll following its preparation.

Tax Notice

21(1) The designated official shall

- (a) mail to, or
- (b) deliver to an adult person at

the address shown on the tax roll of the person taxed one notice during the year with respect to each parcel or business.

- (2) The tax notice shall show in respect of the parcel or business
- (a) the name and address of the person taxed,
 - (b) the location of the property or business,
 - (c) the rates of taxation for the current year,
 - (d) the total taxes levied for the current year,
 - (e) the arrears of taxes due,
 - (f) the amount of any payments made during the year prior to the issuance of the tax notice,
 - (g) the total taxes due,
 - (h) the date on which a penalty may be imposed in default of payment of the taxes, and
 - (i) the place or places at which the taxes may be paid.

- (3) If a Council has provided for the payment of taxes by instalments the tax notice shall also show
 - (a) the amount and due dates of the instalments to be paid in the remainder of the year, and
 - (b) the effect of default of payment of any instalment.
- (4) A Council may authorize the tax notice to be divided into two notices
 - (a) one relating to the taxes imposed as a result of requisitions made pursuant to the School Act by school districts or divisions, and
 - (b) one relating to all other taxes and any reference in this Act to a tax "notice" shall be read as a reference to either or both of the notices.
- (5) The designated official shall enter on the tax roll the date of mailing or delivery of the tax notice and the entry on the roll is prima facie proof of the levy of the taxes on that date without proof of the authority of the person making the entry to make it, and the absence of any date is prima facie proof that the address of the person named on the roll is unknown.
- (6) No tax notice shall be considered irregular, incomplete or otherwise invalid and no exemption from taxation is conferred by reason of any error, omission or mis-description in the notice or by reason of the non-receipt of the notice by any person.
- (7) No tax notice need be sent to any purchaser unless the designated official has received notice in writing requesting that notices of assessment and taxation be sent to the purchaser.

Interim Tax Notice

- 22(1) If a Council adopts an interim budget, the Council may pass an interim tax rate bylaw and may authorize the designated official to issue an interim tax notice.
- (2) The provisions of this Act with respect to a tax rate bylaw and a tax notice apply to an interim tax rate bylaw and an interim tax notice.

Instalment Payment of Taxes

- 23(1) The Council by bylaw may provide that taxes be paid, at the option of the person taxed, by instalments.
- (2) A bylaw under this section may provide that in default of payment of any instalment by its due date
 - (a) the subsequent instalment or instalments shall forthwith become payable, or

- (b) a penalty may be imposed not exceeding 18% per annum on the outstanding amount prorated over the period during which the default continues but not after the end of the year in which the taxes are levied.

Penalties for Unpaid Taxes

24(1) The Council by bylaw may

- (a) establish dates for payment of any or all taxes,
- (b) impose a penalty for the non-payment of the taxes by the due date or dates
- (c) provide for the imposition of the penalty on a sliding scale
- (d) alter or vary the penalty and the date or dates on which it is imposed

but the aggregate of all penalties imposed shall not exceed a total of 18% in any year.

- (2) A bylaw under this section may provide for the imposition of a penalty not earlier than 30 days after the mailing or delivery of the tax notices but the aggregate of all penalties imposed prior to June 30 shall not exceed a total of 9% in any year.

Penalties for Arrears of Taxes

25(1) The Council by bylaw may impose penalties on arrears of taxes remaining unpaid after December 31 of the year in which they were levied in an amount or amounts not exceeding an aggregate of 18% in the subsequent year and in each following year thereafter so long as the taxes remain unpaid.

- (2) A penalty under this section may be imposed on January 1 or on any other date or dates specified in the bylaw.

Effect of Bylaws

26 A bylaw passed under section 23(2)(b), 24 or 25

- (a) remains in effect until it is amended or repealed, and
- (b) shall not be construed to extend the time for payment of the taxes or in any way to impair any remedy provided by an Act for the collection of taxes

and any penalty imposed under such bylaw shall be added to and forms part of the taxes.

Discount for Prepayment

27(1) The Council by bylaw may

- (a) provide for discounts,
- (b) establish the rate or rates of discounts,
- (c) establish the date or dates by which payments must be made to receive a discount, and
- (d) establish any other conditions of eligibility for a discount to be allowed

on payments on taxes, other than local improvement taxes, made before the date or dates established in the bylaw passed under section 21 that taxes become due and payable.

- (2) A bylaw passed under this section remains in effect until it is repealed or amended.

Receipt of Payments

- 28 Payments mailed to the address for payment of taxes shown on the tax notice shall be deemed to have been received in the municipal office on
 - (a) the date of the postmark stamped on the envelope containing the payment if the postmark was made by Canada Post, or
 - (b) seven days prior to the actual date of receipt if the envelope is postmarked by a postage meter or other device by a person other than Canada Post.

Receipt for Payments

- 29 When the designated official receives any payment of taxes, he shall provide a receipt for it in the manner approved by the Council, provided that he shall provide a receipt for any payment if requested to do so by the person making the payment, and shall enter the number of the receipt on the tax roll opposite the property in respect of which the taxes are paid.

Application of Tax Payments

- 30(1) If arrears of taxes are owing on any property, any payment of taxes received shall be applied first in payment of those arrears.
- (2) If a payment of taxes is made by a person assessed in respect of more than one parcel and the person does not signify the manner in which or the parcel or parcels on which the payment is to be applied, the designated official shall apply the payment pro rata on account of all taxes owing in respect of the parcels.

Money Payable Under Fire Insurance Policy

- 31(1) All taxes due in respect of improvements are a first charge on any money payable under a fire insurance policy in respect of loss or damage to those improvements.

- (2) All taxes due in respect of any business assessment are a first charge on any money payable under a fire insurance policy in respect of loss or damage to any personal property located on the premises in which the assessed business is carried on which are used in connection with that business and which belong to the person assessed in respect of the business.
- (3) This section does not create a charge on any money payable under a fire insurance policy
 - (a) unless the money payable for damage to improvements or personal property is \$1000 or more,
 - (b) notwithstanding subsection (a), the money payable is for a total loss of the property insured, or
 - (c) which was effected and maintained for his own protection by a mortgage of the property insured.
- (4) As soon as possible after an insurer receives notice of any loss or damage under a fire insurance policy, he shall give notice, by registered mail, of the loss or damage to the chief administrative officer of the municipality in which the property is situated.
- (5) Within 15 days of the mailing of the notice in accordance with subsection (4), the chief administrative officer shall notify, by registered mail, the insurer of the full amount of the taxes due in respect of the improvements and any business carried on the premises.
- (6) When a charge arises under this section and a notice is mailed in accordance with subsection (5), the insurer shall pay to the municipality
 - (a) the amount of the taxes stated in the notice to be due to the municipality, or
 - (b) the amount the insurer is liable to pay under the policy, whichever is the lesser.
- (7) On payment being made under subsection (6), the amount for which the insurer is liable under the policy is reduced by the amount of the payment.

Priority of Taxes

- 32(1) The taxes, penalties and costs due under this Part in respect of any land or any improvement are recoverable with interest as a debt due the municipality from any person, saving his recourse against any other person, who
 - (a) was the owner, purchaser, lessee, licensee or permittee of it at the time of its assessment, or
 - (b) subsequently became the owner, purchaser, lessee, licensee or permittee of the whole or any part thereof, and are a special lien on his estate or interest

- (c) in the land in respect of which the taxes are due and the improvement on it, or
- (d) in the improvement in respect of which the taxes are due and the land on which it is situated, as the case may be, except in so far as the land is exempt from taxation

in priority to every claim, privilege, lien or encumbrance of every person except the Crown, and the lien and priority are not lost or impaired by any neglect, omission or error.

- (2) All taxes, penalties and costs due in respect of any business may be recovered with interest as a debt due to the municipality from the person carrying on the business at the time of its assessment.
- (3) A copy, certified by a designated official, of so much of the assessment roll or tax roll as relates to the taxes payable by any person is prima facie proof of the debt.
- (4) Any debt due to the Minister for taxes in respect of an improvement district or special area has the same priority under this section as a debt for taxes due to any other municipality.

DIVISION 3 - Business Taxation

Definitions

33 In this Division,

- (a) "business" means any activity or undertaking of a commercial, merchandising or industrial nature and includes a trade, profession, occupation, employment or calling and the providing of goods and services and includes an association or cooperative of persons involved in such activity or undertaking
- (b) "floor space" means the superficial area of every floor in the building in which business is carried on, and includes the superficial area of any land not forming the site of a building but occupied and used for the purpose of or incidental to the exercise or carrying on of a business
- (c) "premises" means the store, office, warehouse, factory, building, enclosure, yard or any space occupied or used by a person for the purposes of a business.

Business Tax Bylaw

34(1) A Council by bylaw may

- (a) provide for the grouping of businesses into classes,
- (b) provide for the assessment of any class or classes of business

- (i) at a sum equal to the gross annual rental value of the premises occupied or rented for the purposes of the business,
 - (ii) on the basis of the total available storage capacity of the premises used for the purposes of a business of storage of goods or materials, or
 - (iii) on the basis of a percentage of the assessment of land and improvements made for purposes of taxation under Division 2.
 - (c) prescribe
 - (i) the rate per unit of floor space,
 - (ii) the rate per unit of storage capacity,
 - (iii) the percentage to be applied to the assessment made for purposes of taxation under Division 2 to be used for the purpose of business assessment,
 - (d) specify the percentage of assessed value which shall be the business tax payable in respect of any business assessed,
 - (e) specify dates for the payment of business taxes and impose a penalty for the non-payment of business taxes by the due date or dates which shall be not less than 30 days after the mailing of the business tax notice, and
 - (f) impose penalties on arrears of business taxes remaining unpaid after December 31 of the year in which they were levied but the aggregate of all penalties imposed in any year shall not exceed a total of 18%.
- (2) In exercising its power under subsection (1)(d) the Council may specify
- (a) a percentage of assessed value which shall be payable as business tax in respect of all businesses assessed, or,
 - (b) different rates for different classes of business.
- (3) When machinery, equipment, appliances or other things used in the conduct of a business are taxed pursuant to Division 2, the portion of the premises in or on which those things are located shall not be assessed under this Division.
- (4) When more than one class of business is conducted on the same premises the business tax shall be levied in accordance with the area occupied by each class of business.
- (5) When a tenant who is liable to business assessment sublets all or any portion of a premises leased by him, the assessor, in his discretion, may assess either the tenant or the sub-tenant in respect of the premises or the portion of the premises sublet.

- (6) When a manufacturer sells his products wholesale or retail in the municipality, the manufacturer may be taxed at the rate applicable to wholesalers or retailers as the case may be.
- (7) The occupant of any premises liable assessment under this section is liable for the business tax even though he may also be the owner of the premises and liable to taxation under Division 2.
- (8) When business taxes are in arrears, the designated official may levy the taxes with costs by distress
 - (a) on the goods or chattels of the person taxed used in connection with the business wherever found within Alberta
 - (b) on the interest of the person taxed in any goods to the possession of which he is entitled under a contract for purchase or a contract by which he may or is to become the owner thereof on the performance of any condition
 - (c) on the goods and chattels in the possession of the person taxed where title to them is claimed
 - (i) by virtue of execution against the person taxed
 - (ii) by purchase, gift, transfer or assignment from the person taxed, whether absolute or in trust or by way of mortgage or otherwise, or
 - (iii) by the wife, husband, daughter, son, daughter-in-law or son-in-law of the person taxed or by any other relative of his if the relative lives with the person taxed or assists him in his business,

or

- (d) on the goods and chattels or interest therein, as the case may be, falling within any of the classes mentioned in the foregoing clauses, of any person who occupies the premises in respect of which the business tax was levied, as purchaser of the business theretofore carried on therein by the person taxed.
- (9) A bylaw passed under this section remains in effect until it is amended or repealed.

Annual Assessment of Businesses

- 35(1) The Council shall, in every year before the expiration of the time provided for in the business tax bylaw, provide for the assessment of all businesses that are by virtue of the bylaw liable to business assessment and taxation at the rates specified in the bylaw.
- (2) The Council may provide for the assessment to be made by the assessor or may provide for a system of self-assessment by the businesses on the terms prescribed by the Council.

- (3) The assessment for business tax is in addition to the assessment made for purposes of taxation under Division 2.
- (4) The designated official shall enter on the business assessment roll
 - (a) the name and address of every person carrying on an assessable business within the municipality,
 - (b) the place where the assessable business is carried on, and,
 - (c) the assessed value of the business.

Business Assessment and Business Tax Rolls

36(1) The business assessment and business tax rolls may be

- (a) separate and distinct from, or
 - (b) attached to
- the assessment and tax rolls of the municipality.

(2) The provisions regarding

- (a) preparation and inspection of the assessment roll apply to the business assessment roll except that the business assessment roll may be made, reported on and returned by the assessor at different times from those fixed with respect to the assessment roll
- (b) mailing of assessment notices, complaints as to assessments, the right of appeal from assessment apply with all necessary modifications to business assessments and
- (c) preparation of a tax roll, mailing of tax notices and the collection of taxes apply with all necessary modifications to business taxes.

Business Tax Proratable

37(1) An assessable business is taxable for business tax for those months during the year in which the business is carried on, a portion of a month being taken as a full month.

- (2) A business tax notice shall indicate the amount of business tax payable for the year and upon application by the person liable to taxation on or before December 31 of the year in which the business tax was levied, the designated official shall cancel or refund the portion of the business tax which is in proportion to the number of months of that year during which the business was not taxable.
- (3) The Council may direct the designated official to reduce the amount of any business tax payable by the amount of any license fee paid to the municipality in respect of the taxable business.

Supplementary Business Tax and Special License Fees

- 38(1) The Council by bylaw may impose a supplementary business assessment and tax or a special license fee or both on each person
- (a) who carries on any business for a temporary period or commences business after the final revision of the business assessment roll and whose name is not entered on the roll,
 - (b) moving into new premises or opening new premises or branches of an existing business after the final revision of the business assessment roll, notwithstanding that his name is entered on that roll, and
 - (c) who commences business before the final revision of the business assessment roll, but whose name is omitted from that roll.
- (2) The Council may also impose a special license fee on all persons as soon as they commence to carry on any business within the municipality which shall be set off against any business tax that may be payable by that person during the year or against the supplementary business tax or the special license fee imposed by subsection (1), as the case may be.
- (3) The special license fees under this section may be in the nature of a tax for general purposes.
- (4) No person who is assessed in respect of any business or special franchise is liable to pay a special license fee in respect of the same business or special franchise except as provided by this section.

DIVISION 4 - Local Improvement Taxes

Local Improvements

- 39(1) A local improvement is an capital work which in the opinion of the Council is of greater benefit to the area in which it is undertaken than it is to the whole municipality.
- (2) The Council may authorize any capital work to be undertaken as a local improvement and levy local improvement taxes in accordance with this Division.
- (3) The cost of a local improvement includes the actual cost of the acquisition of any land necessary for it, the actual cost of the capital work, any expenses of engineering, surveying, advertising, issuing debentures and other expenses incidental to completing the work and raising the money to pay the cost of it.
- (4) Subject to any Act of Alberta or Canada respecting railways, the construction, operation or removal of an industrial spur track or of a system of industrial spur tracks may be undertaken as a local improvement and any costs associated with the annual operation and maintenance of the spur or system of spurs may be collected by a local improvement tax.

Initiation of Local Improvement

40(1) The Council may undertake a local improvement

- (a) on receipt of a petition for any local improvement signed by at least $\frac{2}{3}$ of the persons registered or assessed as owners and representing at least $\frac{1}{2}$ in value of the assessment of the land, excluding improvements thereon, of
 - (i) land abutting on that part of the street or place whereon or wherein the local improvement is to be made, or
 - (ii) land in the vicinity to be benefitted by the local improvement, or
 - (b) on its own motion after giving notice to each person referred to in clause (a) unless a majority of those persons representing at least $\frac{1}{2}$ in value of the assessment of the land petition the Council against the local improvement within 21 days from the date of the last delivery or mailing of the notice.
- (2) A notice under subsection (1)(b) shall be delivered or mailed to the mailing address shown on the assessment roll of each person referred to in that subsection and shall contain
- (a) a description of the nature and location of the local improvement,
 - (b) the period over which the cost of the local improvement will be spread,
 - (c) the estimated cost of the local improvement,
 - (d) the portion, if any, of the estimated cost to be borne by the municipality at large,
 - (e) the portion of the estimated cost to be provided by local improvement taxation and the rate of the local improvement tax to be levied, and
 - (f) the procedure for filing a petition against the local improvement, and
- (3) If a local improvement is initiated by a petition the Council may
- (a) undertake the local improvement at any time during the 3 years next following the date of the filing of the petition, and
 - (b) undertake part of the local improvement if the petition is sufficiently signed regarding that part.

- (4) If a local improvement is initiated by a motion of the Council and a sufficient petition against it is received, no further notice with respect to the same local improvement may be given within the same calendar year.
- (5) If a local improvement is initiated by a motion of the Council and a sufficient petition against it is not received, the Council may undertake the local improvement at any time within 3 years of the date of the notice.
- (6) If a local improvement is initiated by motion of the Council and a sufficient petition against it is received, the Council may apply to the Local Authorities Board for an order authorizing it to undertake the local improvement and levy local improvement taxes in respect of it if in the opinion of 2/3 of all of the members of the Council the work is necessary or required in the general interest of area in which it is to be situated.
- (7) Notwithstanding subsection (1), if the Council by a 2/3 majority vote of all of the members declares that any transportation facility as defined in Part IV, section 62, or any water or sewer construction should be undertaken in a newly developing area of the municipality as a local improvement, the Council, with the approval of the Local Authorities Board, may undertake the work without petition and the owners of the land have no right of petition.

Signing of Petitions

- 41(1) If a corporation, church or other organization or an estate is entitled to sign a petition under section 40, the petition may be signed on its behalf by a person who
 - (a) is a representative,
 - (b) is at least 18 years old, and
 - (c) has and produces on request a certificate
 - (i) from the head office or the principal office in Alberta of a corporation,
 - (ii) from the local governing body of a church or other organization,
 - (iii) from the executor or administrator of the estate authorizing him as a representative.
- (2) If a municipality, school division, school district or hospital district is entitled to sign a petition under section 40, that local authority may withdraw its right to sign the petition by providing notice to the Council
 - (a) at the time a petition under section 40(a) is presented to the Council, or

- (b) within 14 days of the last delivery or mailing of the notice under section 40(b)

and its name and the value of its land shall not be counted in determining the sufficiency of the petition.

- (3) A withdrawal under subsection (2) does not relieve the local authority from the liability for payment of local improvement taxes.

Levy of Local Improvement Taxes

- 42(1) The Council by bylaw shall levy local improvement taxes at a uniform and equal rate per foot or per unit of area of parcels affected except that the rate may be greater or less on one side, or a part thereof, of the street or place whereon or wherein the local improvement is undertaken or the tax may be levied on one side only.

- (2) The amount to be levied against any parcel of land as a local improvement tax shall be the same proportion of the cost of the local improvement as that parcel is of the total

- (a) number of lineal feet, or

- (b) total area

of all of the parcels of land affected except that if any of the parcels appear to call for a larger or smaller proportionate share on account of being corner lots or by reason of their size or shape, those exceptional parcels may be determined to have a larger or smaller number of feet or area than they actually have in order to achieve a fair, just and equitable sharing of the cost of the local improvement.

- (3) The amount so levied shall be spread over the period of time which the Council determines, not exceeding the probable lifetime of the local improvement, and shall be payable in equal instalments during each of the years of the period.
- (4) The owner of any parcel so taxed may at any time pay the outstanding balance of the local improvement tax and when he does so the remaining instalments shall be cancelled.
- (5) Each annual instalment shall be entered on the tax roll for the year in which it is payable in the same manner, collectible by the same methods, and subject to the same penalties in case of default of payment, as taxes levied under Division 2.
- (6) A local improvement may be undertaken and the necessary bylaws passed and debentures issued either before or after the cost of it has been finally determined unless the petition or notice in respect of it specifically provides that the cost be first ascertained, but when a local improvement has been authorized and

- (a) has not been constructed or installed, or

(b) has been partially constructed or installed,

the local improvement tax may be collected for 1 year after which it shall be suspended and deferred until the local improvement has been installed, constructed or completed as the case may be.

- (7) If in any case the first levy of a local improvement tax proves insufficient or invalid, an additional or new levy or levies may be made until sufficient money has been realized to pay for the local improvement.
- (8) Instead of the calculation set out in subsection (2), the Council by bylaw may fix a uniform rate based on estimated average costs throughout the municipality for any type of work undertaken as a local improvement and that rate shall apply whether the actual cost of any work was greater or lesser than the uniform rate.

Exemptions from Local Improvement Tax

43(1) If a sanitary or storm sewer or water main is constructed along a street or place

- (a) along which it would not have been constructed except to reach some other area of the municipality, or
- (b) in order to provide capacity for future development,

and the existing sanitary and storm sewers and water mains are sufficient for the existing development in the area, the parcels of land abutting on the street or place shall be exempted from the payment of any local improvement tax in respect thereof until such time as the land is connected to the sanitary or storm sewer or water main at which time the levy may be imposed at the rates originally set out for the local improvement.

- (2) If the sewer or water main replaces an existing facility and the parcels are connected to it for that reason, the exemption may be for the total amount of the local improvement tax or for that portion which in the opinion of the Council is fair, just and equitable.
- (3) If a local improvement tax is being levied for the sewer or water main which the facility replaces,
 - (a) that tax shall be suspended and the outstanding balance shall be added to the cost of the new facility, or
 - (b) the parcels against which the existing tax is levied shall be exempt from the tax for the new facility.
- (4) A local improvement tax shall not be levied on any parcel in any year with respect to more than one sanitary sewer, one storm sewer and one water main.

Portion of Local Improvement Payable by Municipality

- 44(1) The Council by bylaw passed by a 2/3 majority of all of the members may provide that the municipality pay that part of the cost of a local improvement which the Council considers to be of benefit to the whole municipality.
- (2) If financial assistance is provided by Canada or Alberta to the municipality for the undertaking of a local improvement, the Council shall apply the assistance towards the cost of the local improvement.
- (3) The cost of a local improvement shall be reduced by the amounts described in subsections (1) and (2) for purposes of calculating the local improvement tax rate.

Gift of Land

- 45(1) If the undertaking of a local improvement requires the acquisition of land, the Council may agree with the owner that in consideration of the dedication or gift of the land required or a release of or reduction in the owner's claim for compensation, the remainder of his land shall be exempt from all or part of the local improvement tax that would otherwise be levied in respect of the work.
- (2) The local improvement tax roll shall be prepared in conformity with an agreement under this section notwithstanding anything to the contrary in this Act.

Variation of Local Improvement Tax

- 46(1) If there is a

- (a) change of the plan of subdivision affecting a parcel of land, or
- (b) a division of any parcel of land on which a local improvement tax is levied on a smaller or larger proportionate basis pursuant to section 42(2)

the Council, with respect to future years, shall revise the local improvement tax so that each of the new parcels of land will bear a fair, just and equitable proportion of the levy.

- (2) If there is a change in a plan of subdivision affecting an area which had not previously been subject to the levy for a local improvement and the Council is of the opinion that as a result of the change the new parcels do receive a benefit from the local improvement, the Council, with respect to future years, may revise the local improvement tax and apply the revised rate to both the existing and new parcels so that each benefitting parcel will bear a fair, just and equitable proportion of the levy.
- (3) If, after the local improvement tax rate has been set, the Council
- (a) receives financial assistance from Canada or Alberta greater than, or

- (b) refinances at the debt created to pay for the local improvement at an interest rate lower than

had been anticipated when the rate was set, the Council, with respect to future years, revise the rate so that each levy will impose a fair, just and equitable share of the actual costs on the benefitting parcels.

- (4) If, after the local improvement tax rate has been set, an alteration is made under section 48 to the number of lineal feet or units of area subject to the tax sufficient to reduce the proceeds of the tax in any year by more than 5%, the Council, with respect to future years, may revise the rate so that the levy will produce the revenues originally anticipated for those years.
- (5) A revision under this section shall be made by bylaw and shall be levied and collected as if it had been levied against the parcels in the original bylaw.

Local Improvement Tax Roll

- 47(1) Local improvement taxation is in addition to any taxation under Divisions 2 and 3.
- (2) A local improvement tax roll shall be maintained by the municipality which may be
 - (a) separate and distinct from, or
 - (b) attached to and forming part of the tax roll of the municipality.
- (3) The designated official shall enter on the local improvement tax roll
 - (a) the name and address of the owner of every parcel to be taxed,
 - (b) a description of each parcel and the number of lineal feet or units of area to which the rate is to be applied,
 - (c) a description of each parcel which but for subsection (4) would be exempt from the local improvement tax and the number of lineal feet or units of area applicable to it
 - (d) the rate per foot or per unit of area at which each parcel is to be assessed,
 - (e) the number of instalments by which the tax is to be payable, and
 - (f) any amount of local improvement tax paid in respect of the parcel.
- (4) Any land which is exempt from local improvement taxation under any general or special Act shall nevertheless be included for purposes

of calculations under this Division and the local improvement taxes to which it would be subject shall be paid by the municipality unless the owner agrees to pay them.

Appeals

- 48(1) The owner of any parcel may request the designated official to review the number of lineal feet or of units of area which have been attributed to the parcel and the designated official, if he is satisfied that an error has been made may correct the local improvement tax roll at any time.
- (2) The owner of any parcel which is subject to a local improvement tax may appeal the number of lineal feet or of units of area which have been attributed to the parcel in the same manner and by the same procedure as nearly as possible as in the case of a complaint or an appeal from an assessment made under the Real Property Assessment Act.
- (3) A complaint and an appeal under this section may be made only in the first year in which the local improvement tax is levied and not thereafter.
- (4) When on request to the designated official, complaint to the court of revision or appeal to the Assessment Appeal Board the number of lineal feet or units of area is altered, the number so altered shall be substituted for the original number in the local improvement tax roll and the local improvement tax bylaw shall be deemed to have been amended by that alteration.
- (5) An alteration under this section does not entitle the owner to a refund of any amounts paid prior to the year in which the alteration is made but the Council, if it considers it equitable to do so, may refund any portion of those amounts.
- (6) The amount by which the local improvement tax payable by any owner is reduced by an alteration under this section shall be paid by the municipality unless the rate is revised pursuant to section 46(4).

DIVISION 5 - Borrowing

General Borrowing Powers

- 49(1) Subject to this Act and the Local Authorities Board Act a Council by bylaw may authorize the chief elected officer and a designated official to borrow money for any purpose within the jurisdiction of the municipality and may issue treasury bills, promissory notes, temporary debentures, debentures or similar forms of obligation as the lending institution may require.
- (2) No money borrowed for capital expenditure or in the hands of the municipality shall be applied towards current expenditures except that it may be temporarily used for operating purposes until it is required for the purpose for which it was borrowed.

- (3) A person lending money to a municipality is not bound to establish the necessity for the borrowing nor to see that it is expended for the purpose for which it is borrowed.

Temporary Borrowing

50(1) When a borrowing is authorized to meet the current operating expenditures and obligations of the municipality, the total amount borrowed and outstanding at any one time shall not exceed the amount of taxes levied or estimated to be levied for the current year.

- (2) When a borrowing is authorized to provide for the temporary financing of the works and expenditures at any time prior to the issuance of all or any part of the debentures therefore

- (a) the term of the loan shall not exceed 3 years, and
- (b) the total amount outstanding at any one time shall not exceed the aggregate amount of the estimated cost of the capital program for that year and any prior year for which debentures have not yet been issued after deducting therefrom any revenue accruing to the program by way of grants or any other contributions.

- (3) A Council may borrow the cost of any capital project approved in the capital budget if

- (a) the debt is repaid within 3 years,
- (b) the yearly payments of principal and interest do not exceed 10% of the previous year's tax levy under Division 2, and
- (c) the aggregate of all payments for borrowing under this subsection do not exceed 30% of the previous year's tax levy under Division 2

and for purposes of this subsection "tax levy" includes grants in lieu of taxes.

- (4) When a municipality has entered into an agreement with Canada or Alberta pursuant to Part IV, Section 18, the Council may borrow any sums required to finance the service or activity pending the receipt of payment from Canada or Alberta but

- (a) the aggregate of the sums borrowed shall not exceed the total sum that Canada or Alberta will contribute under the agreement,
- (b) payments received from Canada or Alberta shall be applied first to the reduction of the borrowing, and
- (c) the term of the borrowing shall not continue beyond the date on which the final payment under the agreement is received.

- (5) When a borrowing is authorized under this section to finance the operations of a utility or hospital, the borrowing shall not exceed the total amount of accounts owing to the municipality with respect to that utility or hospital including any government grants.
- (6) A borrowing for any of the purposes described in this section does not require the approval of the Local Authorities Board and Part IV, section 5 does not apply to it.

Debenture Bylaws

51(1) Except as provided in this or any other Act, a bylaw under section 49 which authorizes a borrowing which is not repayable in the current year

- (a) is subject to Part IV, section 5, and
- (b) requires the approval of the Local Authorities Board before it may be finally passed and before any borrowing may be made.

(2) If a bylaw has been finally pursuant to subsection (1) and

- (a) because of an increase in the cost of the project for which the debt is to be incurred, as determined by public tender or otherwise, the authorized borrowing in the bylaw is insufficient to finance the project, and
- (b) there is no increase in the standards, plans, specifications or size of the project

with the approval of the Local Authorities Board the Council may amend the bylaw by increasing the authorized debenture to an amount sufficient to finance the project and Part IV, section 5, does not apply to such an amendment.

(3) A bylaw to borrow money for

- (a) the construction of any work ordered under the authority of any statute by Canada or Alberta, or
- (b) to pay any deficiency in a sinking fund account

is not subject to Part IV, Section 5.

(4) A bylaw to borrow money to meet the whole or any part of the costs or estimated costs of any local improvement

- (a) shall provide that the debentures shall mature within the probable lifetime of the local improvement, and
- (b) is not subject to Part IV, Section 5, unless the share of the cost or estimated cost to be borne by the municipality at large is greater than 50% of cost or estimated cost of the local improvement.

- (5) A bylaw to borrow money for the extension, rehabilitation, re-equipment or improvement of an existing capital work or equipment
 - (a) may include the cost of acquisition of any necessary land,
 - (b) may include the replacement of a traffic facility as defined in Part IV, section 62, and
 - (c) is not subject to Part IV, section 5 and the Local Authorities Board may determine whether the borrowing is for the purposes named in this subsection.
- (6) A bylaw passed under Part IV, section 28(2) shall be subject to this section if the term of the guarantee of the debt of the non-profit organization is more than 3 years.
- (7) A bylaw to borrow money for the purpose of purchasing or redeeming the whole or any part of the outstanding debentures of the municipality in advance of maturity is not subject to Part IV, section 5.
- (8) Except as otherwise provided by this Act a bylaw referred to in this section shall provide for the issuing of debentures to be payable within a period of not more than 50 years from the date of issue and
 - (a) the levying of annual rates, or
 - (b) the allocation as a first charge on them of the gross sales or rental values of
 - (i) any land or building acquired, or
 - (ii) any municipal utility in respect of which the borrowing is to be made

and for the levy of rates to meet any amount by which the gross sales or rental revenues are not sufficient in any year for the repayment of the debt, and

 - (c) may be referred to as a debenture bylaw.
- (9) A bylaw approved by the Local Authorities Board and any debenture that may be issued in conformity with it is valid and binding on the municipality and on the property liable to any rate imposed in connection with it, and the validity of the bylaw and the debentures is not thereafter open to question in any court.

Requirements of Debenture Bylaw

52(1) A debenture bylaw shall state

- (a) the amount of the debt to be created and in general terms the object for which it is to be created,
- (b) the term of the debt and the amount of the annual instalments to be paid,

- (c) the maximum rate of interest in numbers or by reference to the rate fixed from time to time by the Alberta Municipal Financing Corporation and whether it is to be paid annually or semi-annually,
- (d) the amount of the existing debenture debt of the municipality and whether any of the principal or interest thereof is in arrears,
- (e) the amount of the latest total equalized assessment of the municipality as determined by the Assessment Equalization Board,
- (f) that any required consent, approval or permit of any Minister has been issued, and
- (g) any other information that may be required by the Local Authorities Board

and shall

- (h) authorize the issue of debentures for the amount of the debt to be created,
 - (i) determine the denomination of the debentures either in numbers or by referring to denominations determined from time to time by a designated official,
 - (j) name the places and time when the principal and interest are payable,
 - (k) state the method by which the principal and interest are to be repaid pursuant to section 51(8), and
 - (l) generally be in a form and contain the further provisions that may be required by the Local Authorities Board.
- (2) In the case of a local improvement debenture bylaw, the bylaw
- (a) shall state the portion payable by local improvement taxation and the portion payable by the municipality at large and for that purpose the Council may pass one or more separate bylaws
 - (b) shall provide that if in any year the amount realized from the local improvement tax is insufficient to paying the owners' portion of the principal and interest due in that year, the Council shall pay the deficiency from the general revenues of the municipality but that payment does not relieve the land taxed under the bylaw from the local improvement tax,
 - (c) may provide for a different interest rate on the debentures under it than was used was used in the calculation of the estimated cost of the type of local improvement for the purpose of fixing a uniform rate, and

- (d) in lieu of the issue of debentures may authorize the use of reserve or other funds of the municipality to pay the cost of a local improvement and may impose interest charges in the same manner as if the funds were borrowed under a debenture.
- (3) A debenture bylaw may provide that all or any part of the debentures authorized thereby will be redeemable at the option of the municipality at any time or at the time or times in advance of the maturity that may be specified in the bylaw and any such bylaw shall specify
- (a) the place of redemption,
 - (b) that notice of intention to redeem will be given at least 30 days prior to the date set for redemption in the manner specified in the bylaw and endorsed on every such debenture,
 - (c) the price or prices at which the debentures may be so redeemed including any premium or premiums on redemption as may be specified in the bylaw,
 - (d) that if only a portion of the debentures is to be redeemed at any time, debentures having earlier maturity dates will be redeemed before debentures having later maturity dates and in the case of all the debentures having the same maturity date the debentures to be redeemed will be determined by drawing lots, and
 - (e) any other conditions that the Local Authorities Board may require

and the Council or a designated official may subsequently exercise the option to redeem any or all of those debentures.

- (4) A debenture bylaw may provide that the debentures and coupons are payable at any place or places in Canada or in any other country and may be payable in lawful money of Canada or of the place or country where they are made payable and a bylaw authorizing the issue of debentures for a certain amount with interest in lawful money of Canada shall be taken to authorize the issue of the debentures or any of them in a like amount of the lawful money of another place or country.
- (5) A debenture bylaw may provide that if an outstanding debenture becomes mutilated or destroyed or stolen or lost, a new debenture of like tenor and effect may be issued in replacement of that debenture on any terms and conditions the bylaw provides.

Amendment or Repeal of Debenture Bylaws

53(1) When a Council has passed a debenture bylaw it may amend the bylaw with the approval of the Local Authorities Board to change

- (a) the mode of issue of the debentures,

- (b) the place or places where they are payable,
- (c) the manner of repayment, or
- (d) the interest from annual to semi-annual or vice versa or to provide that the debentures
- (e) be issued with interest coupons instead of in amounts of combined interest and principal or vice versa, or
- (f) may be issued in a different currency or may be in different denominations from those authorized in the original bylaw

and such an amending bylaw is not subject to Part IV, section 5.

- (2) When any debenture issued under a bylaw has been sold, pledged or hypothecated, the Council may authorize a designated official, on the municipality again acquiring it or on the request of the holder of it, to cancel the debenture and issue one or more debentures in substitution for it having the same aggregate principal amount as the principal amount of the cancelled debenture and having the same interest rate and same maturity date as the cancelled debenture.
- (3) An amending bylaw under subsection (1) and the substitution of debentures under subsection (2) shall not
 - (a) extend the maturity date of the original debenture, or
 - (b) increase the amount of principal owing in excess of the amount remaining owing on the original debentures.
- (4) When in the opinion of the Council it is desirable to change the rate of interest from the rate specified in the debenture bylaw or to change the period over which the indebtedness was originally spread or the term at the end of which it was made payable, the Council with the approval of the Local Authorities Board may pass an amending bylaw providing for
 - (a) a different rate or rates of interest,
 - (b) a different period over which the indebtedness will spread,
 - (c) a different term at the end of which the indebtedness will be made payable, and
 - (d) a corresponding change in the amount to be raised annually with respect thereto on any or all of the debentures

and Part IV, section 5, does not apply to such an amending bylaw.

- (5) A Council with the approval of the Local Authorities Board may repeal a debenture bylaw as to all or any part of the debentures to be issued under it and as to a proportionate part of the amounts to be raised annually and the repealing bylaw

- (a) shall state the facts on which it is founded,
- (b) may provide for the withdrawal of any amounts that have been paid into a sinking fund in respect of the debentures that are not to be issued, and
- (c) is not subject to Part IV, section 5.

Consolidation of Debenture Debt

54(1) A Council may authorize a designated official to consolidate the amount or any part of the amount of debenture debt authorized under 2 or more debenture bylaws if the interest rates and terms of years provided in the bylaws are the same and to issue one or more debentures therefor.

(2) A Council with the approval of the Local Authorities Board by bylaw may consolidate the amount or any part of the amount of debenture debt authorized under 2 or more debenture bylaws and the consolidating bylaw

- (a) may authorize the issue of one or more debentures
 - (i) for any term of years not longer than the longest term provided, and
 - (ii) at a rate of interest not exceeding the highest rate stated in any of those bylaws,
- (b) shall provide for the levy of an annual rate or rates sufficient to pay the principal and interest of the consolidated bylaws,
- (c) may include any of the changes authorized in section 53(1),
- (d) with the approval of the debenture holder may consolidate the unpaid balance of any debenture previously issued with other debentures whether issued or not,
- (e) does not affect a local improvement tax bylaw, and
- (f) is not subject to Part IV, section 5

and the net proceeds from the issue and sale of consolidated debentures shall be applied in the same amounts to the same purposes as set out in the original bylaws.

Retractable and Extendable Debentures

55(1) When the Council of a municipality with a population in excess of 40,000 persons has passed a bylaw under section 51, notwithstanding anything in this Part the Council may pass bylaws

- (a) governing the issue and sale of debentures in an amount or amounts not exceeding in aggregate the amount prescribed in the bylaw authorizing debenture borrowing,

- (b) governing the method of repaying at maturity or renewing at maturity or redeeming prior to maturity the whole or any part of the outstanding debentures or other securities of the municipality notwithstanding that those debentures were issued before or after the coming into force of this section,
- (c) authorizing a designated official to issue a temporary or global debenture in any form and in any denomination or denominations that may be appropriate which shall be valid and binding on the municipality and providing the manner in which any such debenture shall be exchangeable for one or more definitive debentures to an equivalent aggregate principal amount payable on the same date and bearing the same rate of interest, or
- (d) providing that the term of any debenture issued under this section may be made
 - (i) retractable at the option of the holder thereof to a date or dates prior to, or
 - (ii) extendable at the option of the holder thereof at the same or a different rate of interest to a date subsequent to the stated maturity date

on notice given to the designated official in the manner provided for in the debenture.

- (2) Every bylaw under this section shall provide for raising sufficient money in lawful money of Canada in each year during the currency of the debentures as may be required to pay annually
 - (a) the interest on the debentures,
 - (b) any principal amount of the debt falling due in the year to the extent that no sinking fund is available for that purpose,
 - (c) in the case of sinking fund debentures, a specific amount which, with a projected rate of earnings compounded annually, will be sufficient to pay the principal of the debentures at maturity

and to the extent that sufficient money is not available from

 - (d) its other sources of revenue, or
 - (e) the issue and sale of further debentures to refund the principal of any debentures falling due in the year

shall provide for the levy of a tax under Division 2.
- (3) Any bylaw authorizing the issue of new debentures to refund retractable debentures at an early redemption date or to refund extendable debentures at their extended maturity date shall provide for the raising of sufficient money to pay the principal and interest of the new debentures in the same manner pursuant to subsection (2) as for the debentures that are being refunded.

- (4) With the prior approval of the Local Authorities Board a bylaw under this section may be given three readings and finally passed at the same meeting of the Council by a 2/3 majority of all of the members of the Council.
- (5) A bylaw under this section
 - (a) shall contain any information required by the Local Authorities Board,
 - (b) is subject to the approval of the Local Authorities Board which may be given before or after it is finally passed, and
 - (c) is not subject to Part IV, section 5.

Debentures

56(1) Any debenture under this Act may be

- (a) in a form, and
 - (b) made payable in any manner
- that is approved by the Local Authorities Board.
- (2) When a series of debentures of the same denomination is issued at the same time, each of the series shall be distinguished by a mark or symbol different from the mark or symbol appearing on the other debentures of the same issue and the mark or symbol shall also appear on the coupons, if any.
 - (3) A debenture shall be sealed with the seal of the municipality and signed by the chief elected officer or a designated official authorized by bylaw to sign and every coupon attached to debentures shall bear the same signature.
 - (4) The Local Authorities Board, on request of the Council, may countersign any debenture.
 - (5) On any debenture
 - (a) the seal,
 - (b) the signature, and
 - (c) the countersignature of the Local Authorities Board
 may be reproduced by any method of mechanical reproduction and when so reproduced has the same effect as if it had been manually affixed.
 - (6) The seal and the signature shall be the seal of the municipality and the signature of the person authorized to sign on the date it is affixed, notwithstanding any change in the seal or the person authorized between the time when they are affixed and the date of the delivery of the debentures.

- (7) Every debenture issued shall have written, printed or stamped thereon a memorandum containing the particulars noted in the Debenture Register and any other information in a form approved by the Local Authorities Board.
- (8) No debenture shall be issued after the expiration of 6 years from the date of final passing of the bylaw authorizing the issue.

Validity of Debentures

- 57(1) Any debenture issued under a borrowing bylaw is valid and binding on the municipality notwithstanding any deficiency in form or substance or otherwise of the bylaw or of the authority of the municipality in respect thereof, if
 - (a) the bylaw has received the assent of the electors when their assent is required,
 - (b) no successful application has been made to quash the bylaw within 2 months after its final passing, and
 - (c) the bylaw has received the approval of the Local Authorities Board when it is required.
- (2) The countersigning of a debenture by the Local Authorities Board is conclusive proof of the validity of the debentures and their validity is not open to question in any court.
- (3) Any debenture issued in respect of a local improvement is not invalidated by reason of any defect or omission in the proceedings relating to the authorization, undertaking or construction of the work or the levying of the local improvement tax related thereto.
- (4) If the interest for one year or more on the debentures issued under a bylaw or the principal of any debenture that has matured has been paid by the municipality, the bylaw and the debentures issued under it are valid and binding on the municipality and are not open to question in any court even if the required assent of the electors has not been obtained.

Debenture Register

- 58(1) A designated official shall keep a record known as the "Debenture Register" in which shall be entered the particulars of every bylaw authorizing the issue of debentures and of all debentures issued thereunder.
- (2) A certificate signed by the designated official and sealed with the seal of the municipality is prima facie proof of the registration of a debenture in the Debenture Register and may be referred to as a "certificate of ownership" and the designated official shall enter in the Bylaw Register a copy of all certificates of ownership that he gives and of every transfer of ownership certificate.

- (3) Every debenture registered in the Debenture Register is valid and binding in the hands of the municipality or of any bona fide purchaser for value notwithstanding any defect in form or substance.
- (4) Any debenture may provide that a transfer of ownership will not be registered in the Debenture Register until written authority has been received from
- (a) an unregistered holder in the case of a bearer debenture, or
 - (b) the person last entered in the Register as the owner of the debenture or from his executor, administrator or attorney
- and upon receipt of the written authority the debenture shall be transferred
- (c) by entry in the Register, and
 - (d) by issue of a transfer of ownership certificate by the designated official.
- (5) When the signature on the written authority is guaranteed by
- (a) a bank, treasury branch or credit union,
 - (b) a member of the Investment Dealers' Association of Canada,
 - (c) a notary public, or
 - (d) any other guarantor
- who may be authorized by bylaw approved by the Local Authorities Board neither the designated official nor the municipality incurs liability to the true owner for any loss caused by the transfer in case the written authority was not signed by him.
- (6) If any interest coupons are detached from a debenture, the coupons are transferable by delivery.

Debenture Accounts

- 59(1) The designated official shall keep separate accounts of every debt for
- (a) the interest, and
 - (b) the sinking fund or instalments of principal
- distinguished from all other accounts in a manner which will demonstrate
- (c) the purpose for which the debt was created, and
 - (d) the state of every debt.

- (2) The designated official shall prepare and provide to the Council prior to the approval of the budget a statement showing the amounts that will be required to be raised during the year to which the budget applies for
- (a) payments of interest and principal on debentures, and
 - (b) contributions to a sinking fund.

Sinking Fund

- 60(1) If a sinking fund is to be used to redeem outstanding debentures the designated official shall maintain a separate account in a bank, treasury branch or credit union designated by the Council to be known as the "Sinking Fund Account of the (name of municipality)" and shall deposit in the account all
- (a) money levied and collected for the purposes of a sinking fund,
 - (b) proceeds of debentures issued to pay a deficiency in a sinking fund, and
 - (c) any other money that the Council directs to be credited to the sinking fund.
- (2) The money deposited in the account, until required for payment of the debt to which the fund is applicable, may be invested in
- (a) any security of Canada or of any province of Canada,
 - (b) any security the payment of which is guaranteed by Canada or any province of Canada,
 - (c) the debentures of any municipality, school division, school district, hospital district or regional services commission in Alberta including those of the municipality which established the account, or
 - (d) any of the investments authorized for insurance companies by the Canadian and British Insurance Companies Act (Canada) other than investments under section 63(4) of that Act
- in accordance with the manner in which investments are to be made set out by bylaw by the Council.
- (3) A Council by bylaw may appoint
- (a) a Board of Sinking Fund Trustees, or
 - (b) a trust company approved under the Trust Companies Act
- to take charge of the Account according to the terms set out in the bylaw and subsection (2) but all payments into and withdrawals from the Account shall be made by the designated official.

Use of Capital Funds

- 61(1) No money borrowed for capital expenditure or in the hands of the municipality as capital funds shall be applied towards current expense.
- (2) Any unexpended balance of a debenture may be used for any other capital expenditures with the approval of the Local Authorities Board on any terms and conditions the Board considers appropriate.